



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 8490-98

5 April 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Navy filed enclosure (1) with this Board requesting, in effect, that he be paid full separation pay and that his reenlistment code be changed.

2. The Board, consisting of Mr. Molzahn, Ms. Madison and Ms. McCormick, reviewed Petitioner's allegations of error and injustice on 4 April 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. On 31 July 1993 Petitioner reenlisted in the Naval Reserve for four years and agreed to remain on active duty during that period. At that time he had completed over eight years of active service on prior enlistments.

d. The performance evaluation for the period ending 15 November 1996 indicates that Petitioner had passed the physical readiness test (PRT), but was not within standards for body fat percentage. He was assigned an adverse mark of 1.0 in the category of military bearing/character because he was not within standards. The remainder of the marks show excellent performance of duty. However, he was not recommended for promotion or retention because he was not within body fat standards. On

3 March 1997, following reconstructive knee surgery, he was placed on six months limited duty, which was later extended for another period of six months.

e. Petitioner's performance evaluation for the period ending 15 November 1997 shows that he had failed the PRT test and was not within body fat standards. Except for the adverse mark in military bearing the evaluation shows excellent performance of duty. However, he was not recommended for promotion or retention. On 8 January 1998 he was found physically fit for duty.

f. Petitioner's performance evaluation for the period ending 28 February 1998 shows that he failed the PRT test and was not within body fat standards. Once again, he was assigned an adverse mark in military bearing and was not recommended for promotion or retention.

g. Petitioner's four year enlistment had expired and his medical hold status ended when he was found fit for duty. He was honorably discharged on 28 February 1998. At that time he was paid one half separation pay in the amount of \$14,873.76 and was assigned an RE-4 reenlistment code.

h. Petitioner states that he could not meet the PRT and body fat standards because of his knee problems. He states that his knee has now healed, he meets the body fat standards and desires to reenlist in the Naval Reserve. He believes that full separation pay is appropriate in his case because his inability to meet the weight standards was caused by his knee problems, which were beyond his control.

h. The Board is aware that regulations require the payment of one half separation pay if an individual is denied reenlistment upon the expiration of enlistment, and is not qualified for advancement or retention. The Board is also aware that regulations allow for the assignment of an RE-3T or an RE-4 reenlistment code when an individual is denied reenlistment because of weight control failure.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants partial favorable action. The Board notes that except for the adverse marks cause by his PRT and body fat failures, his performance of duty was excellent. The Board believes that, although the decision to deny reenlistment was proper, the less restrictive

RE-3T reenlistment code should have been assigned. This code will alert recruiters that Petitioner must be evaluated before an enlistment waiver can be granted, but it will not preclude consideration for reenlistment.

Concerning the separation pay issue, the Board notes that in the evaluation ending 15 November 1996 he passed the PRT but was not within body fat standards at that time, and he was not placed on limited duty until over three months later. In addition, the Board notes that there is no evidence in the record to show that his failure to meet body fat standards was beyond his control, although meeting the standards may have been somewhat more difficult due to the knee problem. Given the circumstance, the Board concludes that the payment of one half separation pay was appropriate in this case.

RECOMMENDATION:

- a. That Petitioner's naval record be corrected to show that on 28 February 1998 he was assigned an RE-3T reenlistment code vice the RE-4 reenlistment code now of record.
 - b. That Petitioner's request for the payment of full separation pay be denied.
 - c. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.
 - d. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

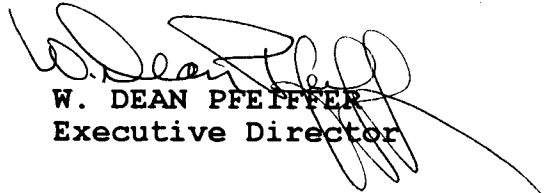
ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e))

and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director